



Eminent Domain Forms

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

Eminent Domain Forms	3
Form 1 - Petition for Condemnation.....	3
Form 2A - Service by Sheriff	4
Form 2B - Service by Mail	5
Form 3 - Motion for Notice by Publication	5
Form 4 - Affidavit of City Attorney	6
Form 5 - Order of Publication	6
Form 6 - Order of Possession	7
Form 7 - Order Sustaining Petition	7
Form 8 - Writ of Inquiry	8
Form 9 - Report of the Jury of View	8
Form 10 - Order Confirming Report of the Jury of View	9
Form 11 - Appeal From Finding of the Jury of View	10
Form 12 - Notice of Dismissal	10
Form 13 - Order of Dismissal	10
Form 14 - Agreed Final Order	11

Eminent Domain Forms

Reference Number: MTAS-1327

Click on the topics listed below in this section for more information.

Form 1 - Petition for Condemnation

Reference Number: MTAS-1328

PETITION FOR CONDEMNATION

Petitioner _____ respectfully states as follows:

1. Petitioner is a municipality and public corporation of the state of Tennessee and has the power of condemnation and eminent domain for public purposes when public convenience requires it pursuant to _____ (*insert charter or private act section*). This petition is filed pursuant to Tennessee Code Annotated, Sections 29-17-901 *et seq.*, (or 29-16-101 *et seq.*, if jury of view procedure is used) to acquire certain property rights for the completion of _____ (*identify project*) with specific authority as set out in _____ (*identify ordinance or resolution authorizing condemnation for project*).

2. The property rights sought to be acquired are part of the property rights in real estate located in the _____ (*identify civil district*) District of _____ County, Tennessee, conveyed to _____ (*insert owner's name*) from _____ (*insert immediate predecessor in title*) of record in Book _____, Page _____, Register's Office for _____ County, Tennessee. This property is described more particularly as follows:

[*Insert description*]

All as more particularly shown on the drawing or map attached as Exhibit _____.

3. Petitioner has determined that respondent(s) owns the entire fee simple interest of the above-described real estate, subject to the encumbrances set out below:

[*List encumbrances*]

4. Petitioner has determined the amount to which the respondent(s) is entitled is _____, and this amount is deposited with the clerk of the court.

5. [*Add if jury of view is used*] Petitioner has filed this petition for the purpose of obtaining the issuance of a writ of inquiry of damages and the appointment of a jury of view pursuant to Tennessee Code Annotated § 29-16-101 *et seq.*

WHEREFORE, premises considered, petitioner prays:

1. That a hearing be had in this matter on an early date and at the hearing, petitioner receive the right to possession and, if necessary, a writ of possession issue to the Sheriff of _____ County to put the petitioner in possession, and

[*or if jury of view procedure is requested*]

1. That a hearing be held on this matter on an early date and at that hearing the court issue a writ of inquiry of damages and appoint a jury of view;

2. That an Order of Reference be entered to determine the amount of taxes due petitioner on said property and said amount to be paid to petitioner;

3. That all additional proceedings be had in this matter and at the final hearing of this cause, petitioner, its successors and assigns, be decreed the property interests set out above; and

4. That petitioner have any and all additional relief to which it is entitled including the assessment of costs as provided by Tennessee Code Annotated § 29-17-912.

Respectfully submitted,

Counsel for Petitioner,
City/Town of _____

Cost Bond
(Requirements for cost bond language vary by jurisdiction.)

Form 2A - Service by Sheriff

Reference Number: MTAS-1329

SERVICE BY SHERIFF

To *(identify name and address of respondents)*

NOTICE

Take NOTICE that on the _____ day of _____, 20____, Petitioner _____ filed a petition in this court against you, praying for the condemnation of property rights in the real estate fully described in the petition, a copy of which accompanies this NOTICE. You are further notified that the petition will be presented to the court for hearing at 9 a.m. on the _____ day of _____, 20____, in the Circuit Court, to determine whether petitioner should be granted an order of possession, entitling it to immediate possession of the property rights described in the petition.

You must plead, answer, or except to the petition as provided by law, or a judgment will be taken as confessed against you and the matter proceeded with as provided by law.

(Include following two paragraphs if using supplementary procedure)

You are further notified, pursuant to Tennessee Code Annotated § 29-17-903, that after the expiration of thirty days from the date of giving of this NOTICE, if the petitioner's right to condemn and acquire the property rights described in the petition is not questioned or contested by written formal objection filed with the clerk of this court and served upon the petitioner's attorney, the petitioner may take possession of the property rights sought. If necessary to place the petitioner in possession, the court shall issue a Writ of Possession to the Sheriff of _____ County to put the petitioner in possession of the property rights.

If you desire to contest the taking by condemnation under the laws of eminent domain, you must appear at the time designated after having filed your written formal objection. If you fail to appear or choose not to appear, an Order of Possession will be entered granting to the petitioner the property rights described. This hearing, however, will not be concerned with the value of your property or your interest therein and will not be concerned with the just compensation to which you are entitled.

This _____ day of _____, 20____.

Circuit Court Clerk

By _____
Deputy Clerk

OFFICER'S RETURN

I certify that I served this NOTICE with a copy of the Petition for Condemnation, upon serving the above-named respondent(s), by personally delivering a copy to the respondent(s), this _____ day of _____, 20____.

SHERIFF OF _____ COUNTY, TENNESSEE

BY _____

Form 2B - Service by Mail

Reference Number: MTAS-1330

SERVICE BY MAIL

To (identify name and address of respondents)

NOTICE

Take NOTICE that on the _____ day of _____, 20____, Petitioner _____ filed a petition in this court against you, praying for the condemnation of property rights in the real estate fully described in the petition, a copy of which accompanies this NOTICE. You are further notified that the petition will be presented to the court for a hearing at 9 a.m. on the _____ day of _____, 20____, in the Circuit Court, to determine whether petitioner should be granted an order of possession, entitling it to immediate possession of the property rights described in the petition.

You must plead, answer, or except to the petition as provided by law, or a judgment will be taken as provided by law.

(Include the following two paragraphs if using supplementary procedure)

You are further notified, pursuant to Tennessee Code Annotated § 29-17-903, that after the expiration of thirty days from the date of the giving of this NOTICE, if the petitioner's right to condemn and acquire the property rights described in the petition is not questioned or contested by written formal objection filed with the clerk of this court and served upon the petitioner's attorney, the petitioner may take possession of the property rights sought. If necessary to place the petitioner in possession, the court shall issue a Writ of Possession to the Sheriff of _____ County to put the petitioner in possession of his property rights.

If you desire to contest the taking by condemnation under the laws of eminent domain, you must appear at the time designated after having filed your written formal objection. If you fail to appear or choose not to appear, an Order of Possession will be entered granting to the petitioner the property rights described. This hearing, however, will not be concerned with the value of your property or your interest therein and will not be concerned with the just compensation to which you are entitled.

This _____ day of _____, 20____.

Circuit Court Clerk

By _____
Deputy Clerk

CERTIFICATE OF SERVICE

This is to certify that this NOTICE and a copy of the Petition for Condemnation has been mailed to all respondents, by U.S. Certified Mail, this _____ day of _____, 20____.

Attorney for Petitioner

Form 3 - Motion for Notice by Publication

Reference Number: MTAS-1331

MOTION FOR NOTICE BY PUBLICATION

Petitioner _____ pursuant to Rule 4.05 of the *Tennessee Rules of Civil Procedure*, *Tennessee Code Annotated* §§ 29-16-105 and 21-1-203, respectfully moves for an Order that notice of the Petition for Condemnation filed upon the respondents, _____, be made by publication and for grounds states that the residence of these respondents is unknown and cannot be ascertained upon diligent inquiry. Petitioner relies on the affidavit of its counsel of record, _____, filed in support of this motion.

Respectfully submitted,

Attorney for Petitioner

Form 4 - Affidavit of City Attorney

Reference Number: MTAS-1332

AFFIDAVIT OF _____ (CITY ATTORNEY)

State of Tennessee
County of _____

I, _____, being first duly sworn, state as follows:

- 1. Affiant is a properly licensed attorney in the state of Tennessee and is the attorney for the petitioner, _____, in this case.
- 2. Affiant states that the property rights sought are part of certain property known as _____ (describe property).
- 3. Affiant states that he has made numerous inquiries and has obtained an extensive title search in attempts to locate the respondent(s), _____. A copy of that title search is attached as Exhibit A.
- 4. Affiant states that he has made a diligent effort to locate the (names/addresses) of the respondent(s) and has been unsuccessful.

FURTHER, AFFIANT SAITH NOT.

Sworn to and subscribed before me a Notary Public, this _____ day of _____, 20____.

Notary Public
My Commission Expires _____

Form 5 - Order of Publication

Reference Number: MTAS-1333

ORDER OF PUBLICATION

It appearing to the court from the affidavit of _____, attorney for the petitioner, that respondent(s), _____, are (unknown or non-residents of the county of _____ and the state of Tennessee) and ordinary service of process cannot be had upon them;

It is ORDERED, that publication of this order be made for four consecutive weeks in the _____, (specify newspaper) a newspaper published in _____ County, Tennessee, notifying the respondent(s), _____, that they are required to answer to make defense to the Petition for Condemnation in the office of the Circuit Court Clerk of _____ County, Tennessee, within 30 days after the fourth weekly publication of this order and that, upon their failure to do so, the Petition for Condemnation will be taken as admitted by them and the case set for hearing without their presence.

Circuit Court Judge
Approved for Entry

Attorney for Petitioner

Form 6 - Order of Possession

Reference Number: MTAS-1334

ORDER OF POSSESSION

This cause was heard on the _____ day of _____, 20____, to determine whether the petitioner should be granted possession of the respondents' property. Based upon the pleadings, exhibits, as well as the entire record,

IT IS THEREFORE ORDERED by the court that petitioner have and receive title and possession to the property rights sought to be condemned, and that a Writ of Possession issue, if necessary, in order to put petitioner in possession of the property, being more particularly described as follows:

[insert legal description of property being acquired]

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that this matter be referred to the clerk of the court to determine past due and unpaid county/municipal taxes that are a lien upon the property.

The clerk of this court will make out and certify to the petitioner, _____, a copy of this Order of Possession.

ALL FURTHER MATTERS ARE RESERVED.

ENTERED this _____ day of _____, 20____.

Circuit Court Judge

Approved for Entry

Attorney for Petitioner

Form 7 - Order Sustaining Petition

Reference Number: MTAS-1335

ORDER SUSTAINING PETITION FOR CONDEMNATION AND ORDERING WRIT OF INQUIRY

This cause came on to be heard on the _____ day of _____, 20____, before the Honorable _____, Judge of the _____ Circuit Court of _____ County, Tennessee, upon the Petition for Condemnation and Notice to respondents. It appearing to the court that the petition and notice have been served, or publication made, as required by law, and that the cause is before the court on application to sustain a petition and for a writ of inquiry of damages and the appointment of a jury of view; and it further appearing that the respondents are before the court and that petitioner has the legal power and authority to acquire [insert the interest sought to be condemned] under the eminent domain laws of the state of Tennessee to the following described property located in _____ County, Tennessee:

[insert a description of the property]

Respondents' right of trial by petit jury to determine the amount of compensation to which they are entitled for this taking is not affected by the transfer of title to petitioner.

IT IS ORDERED, ADJUDGED, and DECREED:

1. That the Petition for Condemnation of the property described above is sustained.
2. That the following persons are nominated and appointed to act as a Jury of View as provided by the eminent domain laws of Tennessee:
 - 1.
 - 2.
 - 3.
 - 4.

5.

Alternate:

3. That the clerk shall issue a writ of inquiry to the sheriff commanding him to summons the Jury of View to appear in open court on the _____ day of _____, 20____, at _____, and no other notice need be given, there to be impaneled and sworn, after which they will proceed immediately to the property sought to be condemned and examine it, hear testimony of witnesses, but no argument of counsel, and set apart by metes and bounds the land to be condemned, and assess damages as required by law, reduce their report to writing and deliver it to the sheriff, who will make his return to the court.

This _____ day of _____, 20____.

Circuit Court Judge

Approved for Entry

Attorney for Petitioner

Form 8 - Writ of Inquiry

Reference Number: MTAS-1336

WRIT OF INQUIRY

State of Tennessee
County of _____

TO THE SHERIFF OF _____ COUNTY, TENNESSEE

A petition has been filed in the Circuit Court of _____ County, Tennessee, for the condemnation of certain rights described fully in the petition.

Now, therefore, as provided by the eminent domain laws of the state of Tennessee, you are commanded to summon the following to act as a Jury of View and to appear on the _____ day of _____, 20____, at _____ o'clock in open court in the Circuit Court of _____ County, Tennessee, at *[insert the place where the court sits]*:

- 1.
- 2.
- 3.
- 4.
- 5.

Alternative:

The Jury of View will be sworn and instructed, and will go immediately to the premises, hear the testimony of witnesses, but no argument of counsel, and set apart by metes and bounds the property to be condemned, and inquire and assess the damages resulting from this taking, and report its findings in writing by each member of the Jury of View or a majority of them, which report shall be delivered to you and by you returned to this court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of this court on the _____ day of _____, 20____.

[insert herein the name of the clerk of court]

By _____
(Clerk or Deputy Clerk)

Form 9 - Report of the Jury of View

Reference Number:

MTAS-1337

REPORT OF THE JURY OF VIEW

We, the Jury of View, summoned, appointed, and sworn, as provided by the laws of the state of Tennessee, and by orders of the court made and entered in this proceeding were directed to lay off by metes and bounds the property interests condemned, and to inquire and assess damages to the property interest taken by Petitioner _____. We report as follows:

We went upon the property condemned on the _____ day of _____, 20____, and examined this property by personal inspection and heard evidence, but no argument of counsel, of the value of the property interests to be condemned, and we allot and set apart to the petitioner, property situated in _____ County, Tennessee, and described as follows:

[insert a description of the property taken]

And we find the fair cash value of the property condemned as being _____, and that this sum consists of the following amounts:

_____ Fair market value of land taken
_____ Incidental damages

The members of the Jury of View met on the following dates and respectfully request a fee for each.

Dates _____

This _____ day of _____, 20____.

Members of the Jury of View

Received from the Jury of View and returned to the clerk of the court this _____ day of _____, 20____.

Sheriff of _____ County

BY Deputy Sheriff

Form 10 - Order Confirming Report of the Jury of View

Reference Number: MTAS-1338

ORDER CONFIRMING REPORT OF THE JURY OF VIEW

It appearing to the court that the Jury of View having met and reported to the court that the fair cash value of the property rights condemned is (Optional: including incidental damages to the residue of \$_____) and having deposited with the clerk of this court the sum of _____.

It is therefore ORDERED, ADJUDGED, and DECREED:

- 1. That the report of the Jury of View is confirmed both as to the appropriation of the property rights condemned and the award of damages resulting from the taking, and that petitioner, _____, upon payment to the clerk for the use of respondents the amount of damages assessed by the Jury of View and all costs of this cause, is adjudged to have acquired the following described property:

[insert a description of the property rights being condemned]

and that the property rights thus acquired and possession is divested out of respondents and vested in petitioner, _____, and any other liens or encumbrances for taxes or the claim of any party are transferred to the funds deposited or secured.

2. That respondents [insert the name or names of all respondents], have and recover of petitioner the sum of the same being the fair cash value of the property rights taken, for which petitioner has paid into this court the sum of .

3. That respondents are entitled to interest at the rate of two percent (2%) above prime on the amount of , that being the difference between the , deposited as tender and the Jury of View award, from the date of taking, [insert the date of taking], until the sum is paid into court.

4. That the members of the Jury of View be paid the sum of each for their services in this cause, the total sum to be paid to the clerk of this court by petitioner as part of the costs in this cause and that the clerk shall distribute the sum to the members of the jury.

5. That this cause be referred to the clerk for a determination of the taxes that constitute a lien on the property in accordance with Tennessee Code Annotated § 26-5-108(b).

This the _____ day of _____, 20____.

Circuit Court Judge

Approved for Entry _____ Attorney for Petitioner

Form 11 - Appeal From Finding of the Jury of View

Reference Number: MTAS-1339

APPEAL FROM FINDING OF THE JURY OF VIEW

Petitioner, _____, excepts to the finding and report of the Jury of View with regard to the fair cash value of the property rights condemned, and appeals this finding and requests a trial before a jury in the usual way, pursuant to *Tennessee Code Annotated* § 29-16-118.

By _____
Attorney for Petitioner

I am surety for costs not to exceed _____.

By _____
Attorney for Petitioner

Form 12 - Notice of Dismissal

Reference Number: MTAS-1340

NOTICE OF DISMISSAL

Comes to the petitioner, pursuant to Rule 41.01 of the *Tennessee Rules of Civil Procedure* and files this notice of voluntary dismissal as to the Respondent _____.

Respectfully submitted,

Attorney for Petitioner

Form 13 - Order of Dismissal

Reference Number: MTAS-1341

ORDER OF DISMISSAL

Petitioner, _____, having given notice of voluntary dismissal pursuant to Rule 41 of the *Tennessee Rules of Civil Procedure* against Respondent _____.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this case is DISMISSED as against the Respondent, _____, and that the moneys deposited into court shall be refunded to Petitioner, minus the court costs.

Entered this _____ day of _____, 20____.

Circuit Court Judge

APPROVED FOR ENTRY

Attorney for Petitioner

Form 14 - Agreed Final Order

Reference Number: MTAS-1342

AGREED FINAL ORDER

This cause having been compromised and settled, as evidenced by the signatures of counsel for Petitioner and the signatures of the Respondents, and the court being duly and sufficiently advised;

It is ORDERED, ADJUDGED, and DECREED by the court that the Respondents have and recover the sum of the same being the fair cash market value of the property described below, Petitioner having paid into court at the time of filing the Petition for Condemnation.

It is further ORDERED, ADJUDGED, and DECREED by the court that all of the title to the property described below be divested out of Respondents and all other persons claiming any adverse interest in it and is vested in Petitioner _____ in fee simple, the property being more particularly described as follows:

[description of the property]

It further appearing to the court that this property may be subject to lien for taxes due, interest and penalty, if any, owing to _____ (county and/or municipality in which property located) and in accordance with *Tennessee Code Annotated* § 26-5-108(b), the clerk of the court, prior to the payment of any part of the judgment to Respondents, shall ascertain whether there are any taxes due and unpaid that are lien upon the property, and shall issue to each of the officials charged with the collection of any taxes that might be a lien on the property a statement, giving the style and number of this cause, a description of the property, and the name of the party out of whom title is divested; whereupon each of these officials shall certify to the clerk an itemized statement of taxes, interest and penalty, if any, that were a lien upon the land as of the date of entry of this Agreed Final Order.

It is therefore ORDERED, ADJUDGED, and DECREED that the clerk is directed to pay out of the money deposited by the Petitioner any unpaid taxes that may be determined to be owing by the above references, and the clerk shall pay any remaining funds to the Respondents.

It is further ORDERED by the court that the costs in this cause be taxed against the Petitioner for which execution may issue if necessary.

The clerk of this court will make out and certify to the Petitioner, _____, a copy of this judgment together with a cost bill for the lawful costs of this cause, for payment by the Petitioner _____.

Entered this _____ day of _____, 20____.

Circuit Court Judge

Approved for Entry

Attorney for Petitioner

Attorney for Respondents

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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